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4 MICHAEL H. MIROYAN,
5 Plaintiff,
6 v.
7 STEPHEN V. MANLEY,
8 Defendant.
9

10 Case No. [16-cv-01084-JCS](#) (PR)
11

12 **ORDER OF DISMISSAL**
13

14 **INTRODUCTION**
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16 Plaintiff, a California state prisoner proceeding pro se, has filed this federal civil
17 rights action under 42 U.S.C. § 1983 in which he raises claims against a state judge in
18 whose criminal court plaintiff appeared as a defendant, and against the state court's clerks.
19 After reviewing his allegations pursuant to 28 U.S.C. § 1915(e), the Court DISMISSES the
complaint.¹
20

21 **DISCUSSION**
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23 **A. Standard of Review**
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25 In its initial review of this pro se complaint, this Court must dismiss any claim that
is frivolous or malicious, or fails to state a claim on which relief may be granted, or seeks
monetary relief against a defendant who is immune from such relief. *See* 28 U.S.C.
§ 1915(e). Pro se pleadings must be liberally construed. *See Balistreri v. Pacifica Police*
Dep't, 901 F.2d 696, 699 (9th Cir. 1988).

26
27 ¹ Plaintiff consented to magistrate judge jurisdiction. (Docket No. 3.) The magistrate
judge, then, has jurisdiction to issue this order, even though defendants have not been
28 served or consented to magistrate judge jurisdiction. *See Neals v. Norwood*, 59 F.3d 530,
532 (5th Cir. 1995).

1 A “complaint must contain sufficient factual matter, accepted as true, to ‘state a
2 claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
3 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial
4 plausibility when the plaintiff pleads factual content that allows the court to draw the
5 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting
6 *Twombly*, 550 U.S. at 556). Furthermore, a court “is not required to accept legal
7 conclusions cast in the form of factual allegations if those conclusions cannot reasonably
8 be drawn from the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754–55
9 (9th Cir. 1994).

10 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential
11 elements: (1) that a right secured by the Constitution or laws of the United States was
12 violated, and (2) that the alleged violation was committed by a person acting under the
13 color of state law. *See West v. Atkins*, 487 U.S. 42, 48 (1988).

14 **B. Legal Claims**

15 Plaintiff alleges that (1) state court judge Stephen Manley violated his constitutional
16 rights by (a) appointing a defense attorney who had a conflict of interest; (b) having a
17 “vindictive disparity of sentencing”; (c) never letting him speak in court, removing him
18 from the proceedings and then sealing the transcripts; and (d) ordering the court clerks to
19 not file his pleadings. He also alleges that (2) the state court clerks are violating his rights
20 by obeying Manley’s instructions. Neither set of allegations states a claim for relief under
21 § 1983.

22 A state judge is absolutely immune from civil liability for damages for acts
23 performed in his judicial capacity. *See Pierson v. Ray*, 386 U.S. 547, 553–55 (1967);
24 *Duvall v. County of Kitsap*, 260 F.3d 1124, 1133 (9th Cir. 2001) (ruling on a motion and
25 exercising control over a courtroom are normal judicial functions, e.g., judge who denied
26 disability accommodation to litigant was absolutely immune). “A judge will not be
27 deprived of immunity because the action he took was in error, was done maliciously, or in
28 excess of his authority; rather, he will be subject to liability only when he has acted in the

1 ‘clear absence of all jurisdiction.’” *Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978)
2 (citing *Bradley v. Fisher*, 80 U.S. (13 Wall.) 335, 351 (1872)); *see also Mireles v. Waco*,
3 502 U.S. 9, 11 (1991) (judicial immunity is not overcome by allegations of bad faith or
4 malice); *Sadorski v. Mosley*, 435 F.3d 1076, 1079 n.2 (9th Cir. 2006) (mistake alone is not
5 sufficient to deprive a judge of absolute immunity).

6 The doctrine of judicial immunity does not bar claims for injunctive relief in § 1983
7 actions. *See Pulliam v. Allen*, 466 U.S. 522, 541-42 (1984); *Ashelman v. Pope*, 793 F.2d
8 1072, 1075 (9th Cir. 1986) (en banc). However, § 1983 itself provides that “in any action
9 brought against a judicial officer for an act or omission taken in such officer’s judicial
10 capacity, injunctive relief shall not be granted unless a declaratory decree was violated or
11 declaratory relief was unavailable.” 42 U.S.C. § 1983.

12 Claim 1 is DISMISSED. All of the actions described by plaintiff (appointing an
13 attorney, imposing sentence, controlling his courtroom and the filing process) are acts
14 performed in Manley’s judicial capacity. He is therefore immune to any claims for money
15 damages, despite plaintiff’s allegations of malice and bad faith.

16 Any claims for injunctive relief are also DISMISSED. Plaintiff has not alleged, nor
17 is there anything in the complaint to support an inference, that a declaratory decree was
18 violated, or that declaratory relief was unavailable. Under these circumstances, Manley is
19 immune from claims for injunctive relief.

20 Claim 2 is DISMISSED because the court’s clerks are also immune from suit. The
21 Supreme Court has recognized that some officials perform special functions which,
22 because of their similarity to functions that would have been immune when Congress
23 enacted § 1983, deserve absolute protection from damages liability. *Buckley v.*
24 *Fitzsimmons*, 509 U.S. 259, 268-69 (1993). This immunity extends to individuals
25 performing functions necessary to the judicial process. *Miller v. Gammie*, 335 F.3d 889,
26 895-96 (9th Cir. 2003). Under the common law, judges, prosecutors, trial witnesses, and
27 jurors were absolutely immune for such critical functions. *Id.* at 896. The Court has taken
28 a “functional approach” to the question of whether absolute immunity applies in a given

1 situation, meaning that it looks to “the nature of the function performed, not the identity of
2 the actor who performed it.” *Buckley*, 509 U.S. at 269 (1993) (quoting *Forrester v. White*,
3 484 U.S. 219, 229 (1988)). Accordingly, state actors are granted absolute immunity from
4 damages liability in suits under § 1983 for actions taken while performing a duty
5 functionally comparable to one for which officials were immune at common law. *Miller*,
6 335 F.3d at 897. Here, the clerks’ declination to file is necessarily a part of the judicial
7 process and therefore they are immune from suit for damages.

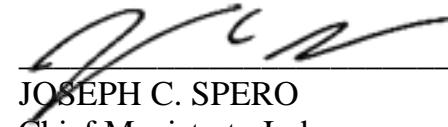
8 Also, if plaintiff seeks relief from Manley’s actions, the proper method is to appeal
9 the judge’s decisions to the state appellate court, or file a federal habeas action, rather than
10 file a suit under § 1983.

11 CONCLUSION

12 Plaintiff’s claims are DISMISSED. The Clerk shall enter judgment in favor of
13 defendants, and close the file.

14 **IT IS SO ORDERED.**

15 **Dated:** May 10, 2016



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17 JOSEPH C. SPERO
18 Chief Magistrate Judge
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CERTIFICATE OF SERVICE

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
13 District Court, Northern District of California.

14 That on May 10, 2016, I SERVED a true and correct copy(ies) of the attached, by placing
15 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
16 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
receptacle located in the Clerk's office.

17 Michael H. Miroyan ID: ID: ATT211
18 Elmwood Correctional Facility
701 S Abel Street
Milpitas, CA 95035
19

20 Dated: May 10, 2016
21

22 Susan Y. Soong
23 Clerk, United States District Court

24 By: Karen L. Hom
25 Karen Hom, Deputy Clerk to the
26 Honorable JOSEPH C. SPERO
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